

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

JERRY BOYLE, on behalf of)
himself and a class of others)
similarly situated,)
)
Plaintiffs,)
)
v.) No. 17 CV 00244
)
CITY OF CHICAGO, et al.,) Chicago, Illinois
) May 3, 2017
Defendants.) 9:48 a.m.

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE HARRY D. LEINENWEBER

APPEARANCES:

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1 (Proceedings heard in open court:)

2 THE CLERK: 17 C 244, Boyle versus City of Chicago.

3 THE COURT: Good morning.

4 MR. MINE: Good morning, your Honor. Andrew Mine for
5 defendants.

6 MR. FUTTERMAN: Good morning. Craig Futterman and
7 Matt Topic for plaintiff.

8 THE COURT: All right. What's up this morning on
9 this?

10 MR. FUTTERMAN: Defendants filed motions to dismiss.
11 We've conferred because it raised some factual standing
12 issues, and the parties jointly propose to stay briefing for
13 60 days so that we can do a limited amount of discovery on
14 those standing issues and ask for a 60-day status.

15 THE COURT: So continue the motions for 60 days?

16 MR. FUTTERMAN: Yes.

17 MR. MINE: That's fine, your Honor.

18 THE COURT: All right. What is -- you have a status
19 set for next week, so might as well tell me now. What's this
20 case about?

21 MR. MINE: The case is a claim that Mr. Boyle had his
22 phone affected by the City's so-called stingray cell site
23 simulator device. The device was not usable. It was not in
24 Chicago at the time, and that's why we've raised the standing
25 claim.

1 THE COURT: I'm kind of at a loss. What's a stingray
2 device?

3 MR. FUTTERMAN: These are -- so we brought a putative
4 class action. A stingray device is something that pretends to
5 be a cell phone tower and has the capacity to seize and search
6 personal data from folks' cell phones. And we've alleged that
7 the City has -- the CPD has engaged in a practice of using and
8 deploying these to unconstitutionally search folks' phones
9 without a warrant.

10 As defense counsel noted, they have raised a
11 preliminary standing question with respect to the particular
12 named plaintiff, and with respect to the allegations there,
13 they claim that the stingrays or the equipment was out of
14 order on the date of the protest in which this was alleged to
15 have been used.

16 And so all parties agree that before going further
17 and briefing substantive Fourth and First Amendment issues
18 that it would be far more efficient to try to address -- try
19 to address the issue --

20 THE COURT: So the motion to dismiss I can continue
21 for 60 days?

22 MR. MINE: Yes, Judge.

23 MR. FUTTERMAN: Yes.

24 THE COURT: All right.

25 THE CLERK: July 6th at 9:00. And for status?

1 THE COURT: Yes. We'll have a status and see where
2 we are.

3 MR. MINE: Sorry, Judge. Could we do it any other
4 day that week except the 6th? I've got a doctor's
5 appointment.

6 THE COURT: We certainly can.

7 THE CLERK: How about the 11th?

8 MR. MINE: That's great.

9 MR. FUTTERMAN: And strike the status date?

10 THE CLERK: Yes.

11 MR. MINE: Thank you, your Honor.

12 (Proceedings adjourned at 9:51 a.m.)

13 * * * * *

14 C E R T I F I C A T E

15 I, Judith A. Walsh, do hereby certify that the
16 foregoing is a complete, true, and accurate transcript of the
17 proceedings had in the above-entitled case before the
18 Honorable HARRY D. LEINENWEBER, one of the judges of said
19 Court, at Chicago, Illinois, on May 3, 2017.

20

21 /s/ Judith A. Walsh, CSR, RDR, F/CRR May 15, 2017

22 Official Court Reporter

23 United States District Court

24 Northern District of Illinois

25 Eastern Division